

RE: Darryl Cotton v. City of San Diego - Writ of Mandate Proceeding

1 message

Michael Weinstein <MWeinstein@ferrisbritton.com>

Tue, Feb 13, 2018 at 9:01 AM

To: Darryl Cotton <indagrodarryl@gmail.com>

Cc: "Austin, Gina" <gaustin@austinlegalgroup.com>, "Phelps, M. Travis" <MPhelps@sandiego.gov>

Dear Mr. Cotton,

I have no knowledge regarding any of these events on February 3 or February 8, 2018.

First, the first I heard of the February 3, 2018, incident at your property is when I read about it in your email yesterday.

Second, I did not learn about your intention to file a federal lawsuit until I received your email dated February 8, 2018, @ 3:01 p.m. I never communicated that information to Mr. Geraci or Ms. Berry. Gina Austin also assured me that she did not communicate that information to Mr. Geraci or Ms. Berry. I held off notifying my clients because I wanted to first see a copy of the complaint and other papers you were filing precisely because you threatened to sue me personally.

Third, I do not know the three people you say visited you at the property on February 3, 2018; specifically, I do not know the individual you have identified as Duane, the unidentified male you state is a former military special forces operative, or the unidentified woman as far as I know.

Fourth, your conclusion that Gina Austin or I immediately contacted Geraci and/or Duane/Special Forces male (and/or the unidentified woman) about your intended or actual filing in Federal Court is incorrect and false. That did not happen.

Fifth, if you were threatened during this February 3, 2018, incident at the property or in the call you received from the Special Forces male, then you should immediately notify the police and file a police report. If you have video of these three persons as you say then you should provide that to the police as well.

Sixth, you state my email regarding the proposed Judgment in the *Cotton v. City of San Diego* writ of mandate action "is exactly what it appears to be - a pathetic and last minute attempt to try to get the State Court to adjudicate the state action before the federal court can reach my complaint. He did NOT MENTION anything to the Court about how he was going to ask the state court for a judgment." That statement in your email is false and demonstrates a lack of understanding of the two court proceedings. At the end of the January 25th hearing, in which the judge made rulings in both lawsuits, I mentioned to the judge that based on his order denying your motion for issuance of a writ of mandate I would submit a proposed Judgment to the court in the Writ of Mandate proceeding. I made that statement at the end of the hearing because the denial of the motion was dispositive of your Petition for Writ of Mandate that is the subject of the *Cotton v. City of San Diego* lawsuit. It has nothing to do with the May 11, 2018, Trial date in the *Geraci v. Cotton* lawsuit; that Trial date is still in effect and is unaffected by the proposed Judgment in the *Cotton v. City of San Diego* lawsuit.

Respectfully,

Michael R. Weinstein
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From: Phelps, M. Travis [mailto:MPhelps@sandiego.gov]
Sent: Monday, February 12, 2018 5:24 PM
To: Darryl Cotton <indagrodarryl@gmail.com>; Michael Weinstein <MWeinstein@ferrisbritton.com>
Cc: Austin, Gina <gaustin@austinlegalgroup.com>
Subject: Re: Darryl Cotton v. City of San Diego - Writ of Mandate Proceeding

Mr. Cotton:

If you are scared and concerned for your safety I recommend you contact the appropriate authorities.

M. Travis Phelps
Chief Deputy City Attorney

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From: Darryl Cotton <indagrodarryl@gmail.com>
Sent: Monday, February 12, 2018 1:31 PM
To: Michael Weinstein
Cc: Phelps, M. Travis; Austin, Gina
Subject: Re: Darryl Cotton v. City of San Diego - Writ of Mandate Proceeding

Mr. Phelps, the name of the individual who is an ex-special forces operative who works for Geraci is Logan. I don't know last first name. Since I sent this email 3 hours ago, he has been calling me nonstop, he even got a new number and texted me that I must call him right away. I am scared Mr. Phelps. I know that I do not come across as sophisticated and that my passion for political activism marginalizes me. It does not change the fact that Geraci is a real criminal and that Weinstein and Austin are working for him.

MICHAEL/AUSTIN - FUCK YOU BOTH! IF I GET MURDERED, I HOPE TO GOD THIS EMAIL ENDS UP BEING USED AS EVIDENCE AGAINST YOU FOR YOUR ROLE IN THIS. FUCK YOUR "ATTORNEY-CLIENT" PRIVILEGE AND YOUR PROFESSED ZEALOUNESS IN THE ADVOCADY OF YOUR CLIENT'S INTEREST - YOU ARE INFINITELY WORSE CRIMINALS THEN GERACI. YOU UNETHICAL SACKS OF SHIT!

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On Mon, Feb 12, 2018 at 10:08 AM, Darryl Cotton <indagrodarryl@gmail.com> wrote:

Mr. Phelps,

I want to make you aware that on Saturday February 3, 2018. Two males and a female came to visit me and they first told me they had nothing to do with Geraci, but that they were willing to buy the property/CUP from me. When I told them that I could not, they threatened me in various ways, including by telling me that Geraci has "deep and influential ties" with the "City" and the CUP was definitely going through because of Geraci's influence - his exact words were, the "CUP is a done deal" but that it will only go to Geraci. That if the CUP were to be transferred to me, that he would use his influence with the City to sink the CUP.

One of the individuals, named Duane, is a high net worth individual that recently sponsored a high-end art gala at San Diego State University that was attended by several hundred people. The second individual I wont name because he is a former military special forces operative. He threatened me including by telling me that Geraci can use his influence with the City to have my location raided by the SDPD and have me arrested. I told them that I had an agreement in place with the City that allowed me to operate under Prop 215 guidelines and I was in compliance with that agreement. An agreement that also waives my 4th Amendment rights which gives SDPD that ability to enter my property at any time and assure that I am operating in compliance with that agreement. Being arrested as a threat to cooperate with Geraci was not going to be an influence in my decision to pursue him for his criminal behavior when it comes to me or his attempts to steal my property.

That happened on **2/3/18**. I provided notice to counsel here, you and Michael and Gina, AND ONLY THE THREE PEOPLE ON THIS EMAIL on **February 8, 2018 at 3:01 PM**. Exactly **31 minutes later**, the ex-special forces guy called me and emphatically told me he was done with Duane, Geraci and that he had nothing to do with what was going on and begged me not to name him or involve him in the federal lawsuit that he **knew** I was about to file. It is because I do not want to piss this guy off who I know is incredibly dangerous that I am not naming him.

Mr. Phelps, again, I only told counsel here. No one else knew I was filing. That means Michael and/or Gina immediately contact Geraci and/or Duane/Special Forces and told them about my filing in Federal Court. I did file this last Friday. Once the Court approves my in propia status, the US Marshalls will serve summons and copies of the Complaint and the TRO.

Mr. Phelps, Michael and Gina are full on criminals. They have crossed the line. The actions I describe here are 100% true and I can prove it. I have witnesses they visited me, I have video from my property cameras showing they visited me, I have numerous emails, texts and calls I made right after to numerous people after they visited me describing in detail the threats they made.

I have named Michael, Gina and Toothacre as defendants in the federal suit as being co-conspirators and part of Geraci's criminal enterprise that is seeking to unlawfully acquire the property and CUP. The two individuals were at my place threatening me at the behest of Geraci, or maybe even Michael and Gina, we can let the Federal Court sort it out.

I wanted you to be aware of this because Michael's email below is exactly what it appears to be - a pathetic and last minute attempt to try to get the State Court to adjudicate the state action before the federal court can reach my complaint. He did NOT MENTION anything to the Court about how he was going to ask the state court for a judgment. I have numerous witnesses, and they are all drafting declarations right now stating that Michael is blatantly lying - he did not tell the court that judgment is warranted. The record is clear - **ALL** of Michael's pleadings and arguments have specifically stated that this matter should go to trial. **This judgment approach is simply last minute effort to attempt to deprive me of seeking justice in federal court.**

Please take the above into account when dealing with Michael and Gina, at this point, they are going to do whatever they can do to make themselves not be part of Geraci's criminal enterprise. I have filed RICO charges, Geraci ships marijuana out of state and that can be proved. Michael and Gina, even if they were not aware of the out of state shipping, under RICO, are liable for helping Geraci's criminal enterprise seek to unlawfully acquire my property for the same criminal enterprise.

Again, please do not allow Geraci to sabotage the CUP.

On Fri, Feb 9, 2018 at 5:17 PM, Michael Weinstein <MWeinstein@ferrisbritton.com> wrote:

Dear Mr. Cotton and Mr. Phelps,

As I mentioned to the court following the hearing on January 25, 2018, based on the court's ruling and order denying the motion for issuance of a peremptory writ of mandate, the Respondent, City of San Diego, and the Real Parties in Interest, Larry Geraci and Rebecca Berry, are entitled to have Judgment entered in their favor in this action.

Attached please find my draft of a proposed Judgment for your review and comment as to the form of the Judgment. If I do not receive any comments from you by the close of business on Friday, February 16, 2018, then I will submit the proposed Judgment to the court and request that it be signed by Judge Wohlfeil and entered. If I do receive comments from you as to the form of the Judgment, I will either make the requested changes or, if I disagree, I will submit my proposed Judgment to the court along with your comments so that the judge will have everyone's comments in deciding what form of Judgment should be entered.

Thank you.

Respectfully,

Michael R. Weinstein
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